

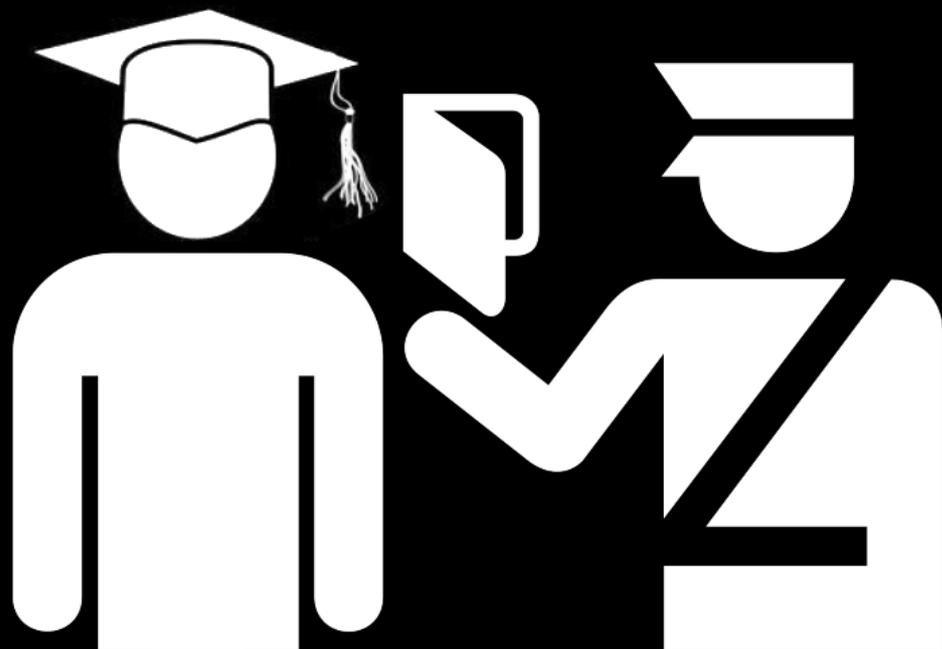
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THE "HOSTILE ENVIRONMENT" IN BRITISH UNIVERSITIES

The International and Broke Campaign

20 June 2018



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Approximately [29% of academic staff](#) in British universities are not British; 16.9% come from EU countries and 12.1% from non-EU countries. Among research-only staff (typically postdoctoral researchers), 47% are from overseas. In this USSbrief, we outline key issues facing non-EU international staff members at British universities, including overt and covert surveillance, spiralling visa costs, untrained or unaware administrators, and limitations on the right to take action to defend and improve their conditions. In short, British universities are a [hostile environment](#) for non-UK staff and students. It is past time for UK universities to both push back against this environment and invest in practical support to make our universities truly international. To achieve this, British and EU colleagues need to understand how the hostile environment affects us all.

1. The spiralling costs of working in British universities

The major visa for non-EU academic and professional services employees in UK higher education is the [Tier 2 \(General\) visa](#), a route under the Points-Based System for skilled migrants. This visa category requires employer sponsorship, and constrains the migrant to working for that employer. It is also subject to a minimum income threshold, a minimum level of savings by the applicant (maintained in a bank account for several months), and payment of a health surcharge. There is also an overall cap on the number of applicants that can be sponsored each year.

Non-EU citizens are also eligible to work here under [different visa categories](#), including dependent (if the partner of a UK citizen or somebody on a different visa), ancestry (for Commonwealth citizens with at least one grandparent born in the UK), Tier 1 (for those with “exceptional talent”), Tier 4 (for students over the age of 16) and Tier 5 (for short-term work, such as fellowships). Here we focus primarily on Tier 2, as this is the most common visa type for university workers.

The [costs of all categories of visas](#) have risen sharply in recent years. In 2008, a Tier 2 visa, which granted up to three years leave, cost £205. By 2014, that same visa cost £514. However, the most significant rise came in 2015 when an [Immigration Health Surcharge](#) (IHS) of £200 per person per annum was

introduced, on top of the visa fee and the taxes and National Insurance contributions we all pay. Including the IHS, the current minimum cost of a five-year Tier 2 visa is £2,200, or £444 per year. When migrants are not from what the Home Office (HO) considers to be a majority English-speaking country, they often need to pass English tests costing between £150 and £200. The Government has [announced plans](#) to double the IHS to £400 during 2018, taking the total to at least £3,200. This is a very significant outlay, required up front before taking up a job offer. No refunds are given on the visa cost if the application is refused.

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16 June 2018

Have you been offered a job in the UK and require a Tier 2 visa?

£1220	+	£1000	=	£2220
Tier 2 visa 5 years		Immigration Health Surcharge at £200pa		

+£150-200 for language tests (if no degree from an English majority country);
+ £150 for Tuberculosis screening (depending on origin country).

If applying from within the UK, add £188 to base fee, £19.20 for biometric enrolment & £15 for Special Delivery of documents;

Switching or reapplying from within the UK but can't wait up to 8 weeks for a decision?

(while UKVI hold your passport)

+£475 (Priority Service – decision within 2 weeks)

OR

+£610 (Premium Service – decision same day)

This is not the only expense international staff face. Immigration rules allow for Tier 2 migrants to [apply for settlement](#) or permanent residency—called Indefinite Leave to Remain (ILR)—after five years in the UK, with a maximum of six years residence allowed. Five years after arrival, then, international staff are compelled to decide: either make plans to leave the UK before their visa expires, or apply for ILR. The application fee for ILR is currently £2,397 per person. Eligibility conditions for ILR are onerous, and buried in [86 pages](#) of guidance. Applicants must pass the [“Life in the UK” test](#), at the cost of £50, and pay fees for biometric enrolment on top of the ILR fee.

Do you want to stay in the UK after 5 years?

£2389 (Indefinite Leave to Remain)

+£50 for the 'Life in the UK' test;
+£19.20 for biometric enrolment;
+15 for Special Delivery of documents.

Can't wait up to 6 months for a decision? (while UKVI hold your passport)

+£610 (Premium Service – decision generally given same day)

To qualify for ILR, visa holders cannot have been out of the UK (including for legitimate work) for more than 180 days in any 365-day period in the five years prior to their application. In January 2018, the Home Office [changed](#) how they calculate this. It used to be in 12-month blocks, counting backward from the date of the ILR application. Continuous residence is now calculated on a *rolling* basis with no more than 180 days allowed in any 12 month period. This change was initially announced as *retrospective*, meaning that staff who had calculated their absences from the UK in line with the old rules, as had many academics who have taken sabbatical research leave, overseas trips, or visiting fellowships, became concerned that they might not meet the new rules. A [transitional rule](#) has since been announced. Regardless, several academics [have run afoul](#) of this provision due to the international nature of their research. UK Visas and Immigration (UKVI), a division of the HO, holds their passport while the application is being processed, which can take up to six months. While there are signs of a relaxation of this with the announcement of a new [contracted out service](#) to process these applications, the current practice effectively constrains freedom of movement of international staff. By paying £610 for the "Premium Service", applicants can generally get a same-day decision, although they must pay to travel to a nominated ["premium service" centre](#).

For international staff with partners and/or families, costs are multiplied, since all fees are levied per person, including children. For a family of four, the cost of obtaining ILR is approximately £10,000. If the case is complicated, requiring premium appointments and legal consultation, costs can easily exceed £15,000.

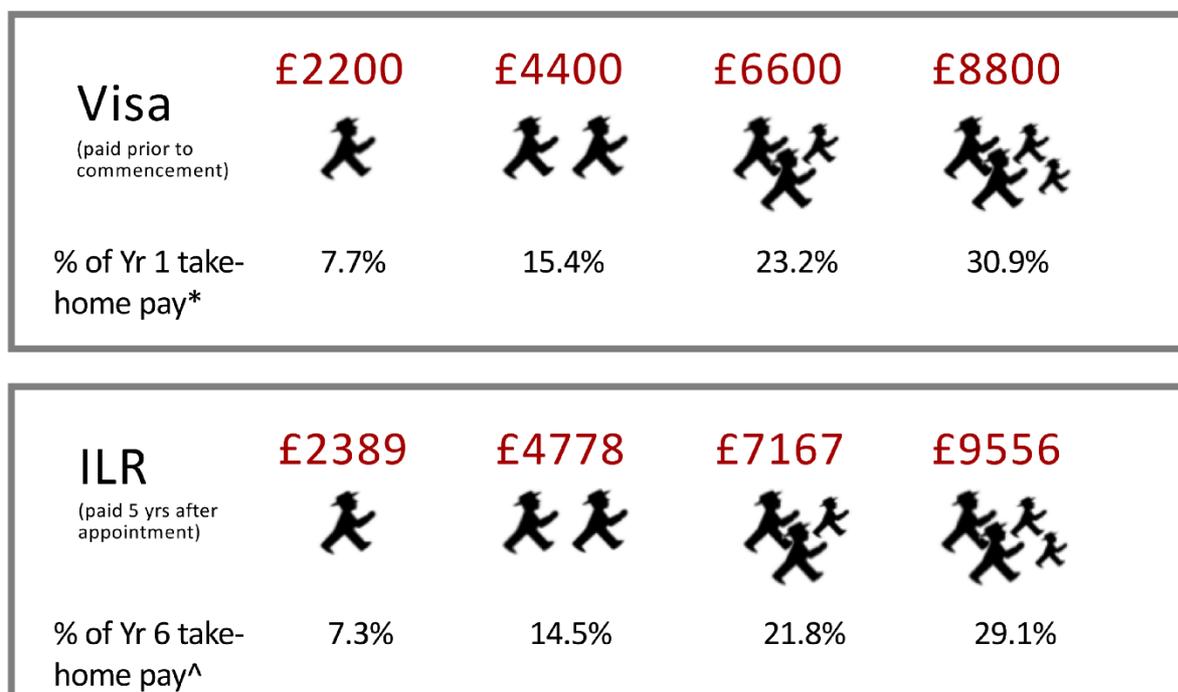
Annual increases on all of these visa costs have been unpredictable, but consistently well over inflation. ILR costs rose by 22.5% in 2017 alone. The actual cost of processing these applications is significantly less than the fees charged, with the HO banking **"profits" of over 850%** on Tier 2 visas and ILR applications.

The higher education sector has **no consistent policy** on reimbursing visa fees. A handful of **progressive institutions** reimburse all standard costs for Tier 2 visas (including the IHS) as well as ILR for staff members and their dependent partners and children. **Crowdsourced data** shows that a growing number of universities have begun to provide some support, but this remains highly varied, and too many universities refuse to reimburse any costs at all. Practice also varies by seniority and contract type, with the lowest paid and most contingent academics, such as postdoctoral researchers, consistently the most likely to be left to pay their own visa costs. At base level, migrant workers take home significantly less pay than UK colleagues simply because of their immigration status. **Gareth Edwards** has developed an infographic modelling the costs for a Tier 2 visa and ILR for those with a family, set against reference salaries:

@gasedwards

16 June 2018

Tier 2 Visa and settlement costs relative to pay



* Based on £41,212 (SP38), the **typical starting salary for a Lecturer**, & assuming standard tax & NI contributions and 8% pension contribution.

^ Based on £47,722 (SP43), assuming normal progression along the salary spine, standard tax & NI and 8% pension contribution.

NB. Tier 2 staff are also **ineligible** for Child Benefit and Child Tax credit

Migrant workers in British universities, like all migrant workers, are also subjected to checks on their legal status in everyday life, and so have limitations on their ability to acquire and maintain housing, banking and health services. Network members report not being able to obtain a credit card for two years after arrival, requiring additional international transfer fees to maintain banking from an overseas account. International driving records are frequently not recognised by UK insurers, which drives up the cost of car insurance; and so on. Landlords are also legally required to check the visas of their tenants and share data with the HO, as were ([until recently](#)) NHS providers. Migrant workers also have “no recourse to public funds”, [denying them access](#) to several common benefits available to UK colleagues, such as Child Benefit and some childcare assistance.

University HR departments are frequently unprepared to handle issues related to migrant workers. Practice varies widely and staff in similar conditions at different universities can expect huge variation in support—from well-informed specialist HR advisers, with access to legal advice if necessary, to HR staff whose responsibility for international matters is appended to an already busy workload. At one university that employs over 200 Tier 2 workers in 2017, for example, a senior HR manager admitted to one of our network members that his institution was completely clueless about the legal and administrative regimes their staff were subjected to—“we have dropped the ball”—and had no qualified staff available to provide support or advice. At another, when asked why the university had stopped covering visa costs for dependents, an administrator replied that “it would not be fair for our staff without dependents to pay for your dependents’ visas”.

2. Equality and diversity

The “hostile environment” also makes our institutions less equal and less diverse than they would like to admit. Here we focus just on one protected characteristic under the [2010 Equality Act](#)—pregnancy and maternity—while acknowledging that the hostile environment impacts on other protected characteristics in a range of ways. The Equality Act 2010 forbids both direct and indirect discrimination. The latter [is described as](#) “putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage”. Universities may be in breach of this in key ways, including by providing support for EU, but not non-EU, citizens, and denying support to those with dependents.

Let us start with some good news. Parental and other “allowable” leave does not affect visa eligibility or qualifying periods for ILR, so international staff can start families if they wish to. Similarly, international staff are able to bring their families with them, subject to the payment of the above fees.

However, things are not that simple. Maternity policies for Tier 4 students, for example, vary; some universities [grant](#) students three months of authorised absence, and others state that students who wish to take maternity leave will need to suspend study and [lose](#) the university’s sponsorship (and by default their right to be in the UK). At some institutions, staff are ineligible for maternity leave unless they have already worked at that institution for 12 months.

International staff who have already had children may not have housing, medical care or support systems in place in the UK before arrival, so may wish to defer bringing family members to join them until these are set up. Unfortunately due to the rigidity of immigration rules, this may render future applications for family members ineligible, as was the case with Oxford’s [Dr Fengying Liu](#), who abandoned her career in the UK because she could not obtain a visa for her child. We are also aware of another case where a female academic made the difficult decision to leave an infant with family members overseas to enable a quicker return to work from maternity leave. While they expect to be able to bring their child to the UK in the near future, Dr Liu’s case has prompted significant distress and uncertainty about whether this is possible.

Others may choose for a range of reasons to give birth or to spend periods of their maternity leave surrounded by family or other support mechanisms overseas. However any periods outside the UK must be limited to 180 days in any 12-month period to ensure that the applicant remains eligible for ILR. Pregnancy (including maternity leave) does not count as “exceptional circumstances” to circumvent this restriction.

Returning from maternity leave can also be complicated. Minimum income thresholds for visas are set by the HO—currently £20,800 and £30,000 for specific Tier 2 occupations—and if staff salaries drop below these, employers are required to terminate the visa holder’s sponsorship. If you are a Tier 2 sponsored worker and want to return from maternity leave in a more flexible way, you may fall below these minimum income thresholds. One colleague, after inquiring about visa implications of returning to work part-time, was informed by HR that they could not advise as they simply did not know.

3. Surveillance and monitoring

Although universities have consistently failed to provide informed advice to their staff, they are much more proactive about monitoring compliance. As with so much else however, there is very little clear guidance from the HO on just what is required. In practice, institutions, spooked by [the threat of having their sponsor licence withdrawn](#), are left to fend for themselves. As a result, some have erred on the side of invasive over-monitoring.

Anecdotally, students are [increasingly subject](#) to measures such as obligatory attendance taking and electronic monitoring of their presence through swipe cards. It is common for *all* students to be subject to this surveillance regime to avoid singling out the international ones; two practical consequences of hostile environment policies are that bureaucratic workloads increase, and even UK citizens are subjected to increasing surveillance. When students run into visa difficulties, however, institutions often [rush to comply](#) with little concern for student welfare, as was the case last year with University of Sheffield PhD student Ahmed Sedeeq, who was held in detention over the Christmas shutdown period due to an administrative error at the Home Office and with limited support from the university.

There is even less systematic data on the surveillance of staff; formal policies are often non-existent or at least not publicly accessible. A rare occasion when this came into the open was a [2016 proposal by Edinburgh](#) to force *all* staff to report, in advance, any absences of at least half a day from the office (including mundane activities such as working from the library).

Our campaign, [International and Broke](#), has also received numerous reports of institutions across the UK attempting to monitor the attendance of their international staff. In one department at a self-proclaimed leading research-intensive university, staff are required to email weekly with a report on their attendance, accompanied with a written threat to report staff to the HO for “non-compliance”, cancellation of employment contracts and even deportation. Other departments at the same institution have taken a much more “passive” approach, defaulting to a weekly report of attendance unless informed otherwise.

There appears to be huge variation across institutions, and even within them. What is necessary for “compliance” remains unclear, and implementation for such compliance is often left to individuals with varying knowledge and training about the implications of their actions. The potential for discrimination on the grounds of

nationality and/or race, inadvertent distress, and even intentional abuse in these contexts [is clear](#).

4. Industrial issues

One of the main tools workers have for protecting and extending our rights is our capacity to organise and take industrial action.

For many international staff, it seemed imperative to join the recent strike over pensions. Retention of the Defined Benefit (DB) pension scheme is important for international staff, who may be restricted in investment choices by international tax obligations, and are more uncertain about where they might retire. Non-UK colleagues suffer, [like women and others](#), under Defined Contribution (DC) schemes, due to typically shorter periods of contribution. International staff also have several fewer qualifying years of National Insurance contributions than our British colleagues, potentially affecting the ability to claim the [State Pension](#) at the same level, or in some cases at all. As the strike became a broader critique of marketisation in higher education, international staff also rallied around the additional costs imposed for migrating into the country.

Once underway, the strike affected international staff and students, from concerns about the law to worries about finances. HO regulations made it unclear whether staff would be penalised for participating in action. While it has never been tested in court, some legal advice suggested that industrial action would not be classified as an “allowable” absence. UCU’s pre-strike guidance reminded Tier 2 Visa-holders that 10 consecutive days of unauthorised absence could result in migrants [being reported](#) to the HO, and Tier 4 Visa-holders that 10 missed “expected contacts” or 10 consecutive unauthorised absences would have the same consequence. These absences could have been recorded if a striking supervisor or lab manager failed to validate that student’s attendance—recordkeeping we now know that many universities require weekly.

The strike ran for 14 non-consecutive days, so at first all seemed well. But UCU failed its members in three respects. First, it failed to issue guidance about an [additional rule](#). After 20 days of unpaid leave, universities are required to inform the HO that they have terminated the visa-holder’s sponsorship, triggering the deportation process. UCU guidance did not make it explicit that reporting to the HO could trigger deportation. Second, in declaring an additional period of strike days, it potentially reduced international members’ available absences in the event

of personal crises. Finally, there was the issue of minimum salary thresholds, also mentioned above in the context of flexible working. When migrant salaries fall below the minimum threshold the HO requires employers to terminate visa sponsorship. There were concerns that universities' strike deductions would push some workers below minimum salary thresholds; universities' reticence about how much they would deduct made it impossible to make accurate calculations.

The [next round](#) of strikes announced at the end of March would have resulted in 19 days of unauthorised absence. Continued lack of clarity from the HO and UCU necessitated seeking informal advice from online communities. Many opted to strike only on days when teaching. This gave leeway to participate in the next hypothetical round of strikes, and to save unauthorised absences for personal reasons, if necessary. Some decided to stop striking entirely because they lacked the proper information to help them distinguish between the 10 and 20 day rule. These decisions made international staff feel like they were letting colleagues down, and caused panic about rights to remain in the country.

Guidance remains unclear. On 15 March, Sally Hunt [wrote](#) to then Home Secretary Amber Rudd asking for "urgent clarification" on whether Tier 2 visa holders had the right to strike. She cited Article 28 of the Charter of Fundamental Rights of the European Union. On 11 May, Sally Hunt and John McDonnell [complained](#) that the HO had still failed to provide clarity about whether visa holders had the right to strike. Recently, Shreya Atrey [reminded](#) readers that the right to strike is a human right, defined under Article 11 of the European Convention on Human Rights. The UK ratified the Freedom of Association and Protection of the Right to Organise Convention of the International Labour Organisation, which also protects these rights, in 1949.

But the ability to exercise this right remains ambiguous. Caroline Nokes, Minister for Immigration at the HO, [responded](#) to a query asking for clarification about unauthorised absence by stating, "if a Tier 2 or 5 migrant is absent from work without pay for 4 weeks or more in a calendar year, their leave may be curtailed. Any decision to curtail will take into account all relevant circumstances, including absences due to strike action". This response makes it sound as if strike action could be a permissible absence. However, the government's hostile environment policies do not inspire confidence in its ability to consider the relevance of and right to take strike action in its decision-making processes.

5. What now?

It might sound paranoid that so much of this discussion is based on hypothetical situations: *if* the strike had continued and *if* the HO chooses a strict interpretation of relevant circumstances and *if* the Hostile Environment continues. But the fact is that migrants live in a world of hypotheticals: *if* our employer chooses to pay for visa fees, *if* our visas are approved, *if* we have correctly read and interpreted visa guidance, *if* our documents are in order and *if* our applications for leave to remain are approved, *then* we can stop thinking this way. To date, there have been no guaranteed happy solutions to these hypothetical questions because the HO [regularly changes](#) the rules, and applies them retroactively, and so it is imperative that colleagues understand the mindset under which we are forced to operate.

Several key actions are urgently needed.

As the self-styled voice of this country's higher education sector, Universities UK (UUK) needs to be much more vocal on the impact of the hostile environment on our universities, staff, and students. The most recent UUK briefing on immigration from April 2017 [highlights](#) the importance of international staff to the economy and society, but offers no suggestions on changing the circumstances in which we live and work in the UK.

Our institutions are happy to promote their international staff and students, but too rarely put their money where their mouths are. Individual universities need to move beyond meaningless [public relations campaigns](#) and invest in dedicated support for their staff, who are often isolated from support networks and under financial and personal distress. A [recent campaign](#) at the University of Sheffield provides one model of how local campaigns can be organised and won.

Our British and EU colleagues need to speak out about this. Universities sell themselves as internationally-facing institutions, yet international staff careers are severely impacted by limitations on our mobility, which ultimately affects academic freedom and our ability to perform world class research. Colleagues report having to turn down prestigious international grants and fellowships because of the effect it may have on their visas. Those who have taken these up without being aware of the implications on their ILR have been threatened with detention and deportation.

The hostile environment affects us all. It renders international staff deportable and, by extension, dependent on our employers and indebted for doing our jobs. The

costs of our visa ensure we have to postpone the benefits of progression and promotion. All staff, regardless of nationality, are forced into acting as border guards, implementing the monitoring and surveillance of our colleagues and students. Post-Brexit, colleagues with EU citizenship are also likely to be rolled into this system. And cultures of “compliance” tend to spill over into invasive processes affecting *all staff and students*.

With one in four of us subjected to limitations on our freedom of association, and thus our capacity to take collective action, our union is also weaker. Pushing for international staff to have the same take home pay as British colleagues, the right to strike, and the right to raise our families is both a smart strategic move and quite simply the fair and just thing to do.

Finally, migrants deserve the same rights to live freely and without fear in our communities, whether they work in universities or not. That will only happen when the “hostile environment” is eliminated for good.

[This network of international staff](#) was set up during the Great University Strike of 2018 and builds on local campaigns by a number of people in individual universities. This USSbrief was written on behalf of the network by Mark Pendleton (Sheffield), Gareth Edwards (UEA), Rachel Herrmann (Cardiff), Pavel Iosad (Edinburgh) and Jamie Doucette (Manchester). The UK has a complex set of visa arrangements for non-UK/EU staff. We are not immigration experts, but lay migrant workers who have had to navigate the complexities of this system, often with little to no support from our institutions. We encourage anyone with an issue related to their migration status to contact a migration expert and/or access the UCU’s dedicated [advice service](#).

This paper represents the views of the authors only. The authors believe all information to be reliable and accurate; if any errors are found please contact us so that we can correct them. We welcome discussion of the points raised and suggest that discussants use Twitter with the hashtags [#USSbriefs24](#) and [#internationalandbroke](#); the authors will try to respond as appropriate. This work is licensed under a [Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License](#).